IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

PRESENT

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No.2726 of 1998

Dated: 13-03-2007

Between:

1.APSRTC Employees Union,
rep. by its Zonal Joint Secretary, and others.

.... PETITIONERS

AND

1.A.P.State Road Transport Corporation,
rep. by its Managing Director,
Mushirabad, Hyderabad and 2 others.

.....RESPONDENTS

The Hon'ble Sri Justice Nooty Ramamohana Rao

Writ Petition No.2726 of 1998

Order:

The first petitioner is a trade union, which is espousing the cause of the petitioners 2 and 3. The second and the third petitioners were said to have been promoted to the post of Mechanic Grade II from the post of helpers on 8th December, 1989. According to the_notification issued by

the respondent-Corporation on 11th July, 1989, in terms of Regulation 9 of the A.P.S.R.T.C. Employees (Pay and Allowances) Regulations, 1964, which was made effective from 14th November, 1988, the second and the third petitioners are entitled to have their initial pay fixed in the time scale of the higher post at a stage next above to the stage notionally arrived at by increasing their pay in the lower post by one increment at the stage at which such pay has already accrued. To regulate this mechanism of pay fixation, the respondent-Corporation has issued circular No.PD-37/1990, dated 9th March, 1990, wherein *inter alia* it has been pointed out as under:

> 'Employees who were already promoted on or after 14th November, 1988 and before issue of this circular may exercise their option by 31st March, 1990. Based on their option exercised refixation of pay shall be done by the Unit concerned, get audited and arrears of any accruing thereon shall be drawn and paid after pre-audit.'

Since the petitioners 2 and 3 are said to have been promoted after the cut off date *i.e.,* 14th November, 1988, they are therefore, entitled to exercise their options for pay fixation on or before 31st March, 1990. It is not in dispute that the options exercised by the petitioners 2 and 3 have, in fact, been forwarded for consideration on 2nd April, 1990. But however, no action has been initiated on the options so exercised on the plea that the said options have been forwarded by the Supervisor on 2nd April, 1990, which is beyond the stipulated cut off date fixed in the

aforementioned circular. Hence, their claims for pay fixation have been rejected.

The writ petitioners have pointed out that alternative Saturdays apart from Sundays are holidays for the regional workshop at Kadapa, where the petitioners 2 and 3 are said to be working. The writ petitioners point out that, 31st March, 1990 happened to be one such Saturday, which is a holiday, followed by 1st April, 1990, which is Sunday. This is the reason why the Supervisor has forwarded the options exercised by the writ petitioners 2 and 3 on the immediate next working day *i.e.,* 2nd April, 1990. Unfortunately, the respondents have not checked up correctly this fact.

It will be useful at this stage to notice the provision contained in Section 10 of the General Clauses Act, 1897; which deals with computation of time:

> "10. Computation of time:- (1) Where, by any [Central Act] or Regulation made alter the commencement of this Act, any act or proceeding is directed or allowed to be done or taken in any Court or office on a certain day or within a prescribed period, then, if the Court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day after wards on which the Court or office is open:
>
> Provided that nothing in this section shall apply to any act or proceeding to which the Indian Limitation Act, 1877, applies.
>
> (2) This section applies also to all [Central Acts] and Regulations made on or after the fourteenth day of January, 1887."

Hence, if the last working day for performing any particular deed or action happens to be a holiday, the immediate next working day automatically becomes the last day for performing such an act or function.

Since it is not in dispute that on the very next working day *i.e.*, 2nd March, 1990, the petitioners 2 and 3 have exercised their options and such options were also actually forwarded and received by the competent authority, their options are liable to be acted upon and given effect to in the matter of pay fixation.

I therefore, allow the Writ Petition and direct the respondents to extend the benefit of pay fixation in terms of the Circular No.PD-37/1990, dated 09-03-1990 to the petitioners 2 and 3 by properly refixing their pay and pay them the arrears of the salary and allowances on that count within a period of three months from today.

The Writ Petition is, accordingly, allowed. There shall be no order as to costs.

(Nooty Ramamohana Rao, J)

13th March, 2007
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